



# Parenting with a Plan

How TANF Can Support Positive Parenting Relationships  
and Foster Father Involvement

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# Introduction and summary

Future president Barack Obama addressed a packed church in his hometown of Chicago on Fathers Day 2008. Speaking on the issue of responsible fatherhood, he said:

*But if we are honest with ourselves, we'll admit that what too many fathers also are is missing—missing from too many lives and too many homes. They have abandoned their responsibilities, acting like boys instead of men. And the foundations of our families are weaker because of it.<sup>1</sup>*

These comments touched a nerve, sparking conversations in the blogosphere, at water coolers, in barbershops, and around kitchen tables. Obama was noting an issue that is clearly evident, but rarely raised by national-level leaders—the fact that many fathers are missing from their children's lives. And this is reflective of another significant concern that receives even less attention—the difficulties involved in two people parenting together while living apart, and the frequent exclusion of low-income people from the systems that our nation has created to support such families.

The issue of post-break-up parental conflict pervades our culture, whether we are developing colorful terms for it like “baby mama drama,” or engrossing ourselves in how celebrities like Alec Baldwin, Charlie Sheen, or Jon and Kate mismanage the beginnings of their post-break-up parenting relationships. These examples of high-profile couples at the extremes of conflict and the pervasiveness of the issue can lead to the conclusion that nothing can be done to help families experiencing these difficulties. But the nation's family courts and relevant practitioners have for decades been improving upon approaches such as mediation, parent education, and counseling that help couples reach agreements about visitation arrangements or parenting plans and set them on the right course toward effectively parenting together while living apart. These tools are definitely not a cure-all, and won't work for all couples, but they have been associated with increased father visitation and child support payments.

Yet these helpful tools can be out of reach for low-income families because they are typically connected to the courts and are often part of divorce or custody/visitation actions. This presents great difficulties for parents who are unable to afford an attorney or face educational, literacy, or other barriers to self-representation.

The consequences can be severe. Imagine experiencing a divorce or separation and not having an agreement about custody, visitation, or support in place—being left to constantly negotiate with a former intimate partner about each visit, each dollar exchanged. The potential for constant conflict is evident. Individuals may be unclear about their roles and responsibilities, unknowingly disappointing the other parent’s expectations. Fathers may become frustrated and reduce or eliminate contact with a child. Mothers may simply deny fathers access. Both parents are left with the aggravation that comes from unanswered questions and unresolved issues. Children are ultimately the ones who are hurt, potentially witnessing unnecessary conflicts and often experiencing diminished relationships with the parent who doesn’t have custody—typically fathers.

States and localities vary on how well they are, or are not, addressing this issue. The federal government launched its own program to fill in the blanks more than 10 years ago. This Access and Visitation program, which is included within Temporary Assistance for Needy Family legislation, will soon be reconsidered by Congress. Unfortunately, it remains largely undefined and has received only paltry funding since its inception.

Improvements to the program should include:

- **Increasing available funding.** This would allow the program to expand, serving more families and providing more services.
- **Dedicating funding to legal services providers.** These service providers can offer information and assistance about rights and obligations while also playing varying roles in the delivery of alternative dispute resolution services.
- **Targeting resources.** Certain families should be targeted by the program. These include those who are low-income, never married, lacking access rights or formal visitation arrangements, and those with an incarcerated parent.
- **Increasing community-based institution involvement.** These entities have a critical role to play in providing services that are timely, welcoming, and suited to the populations being served.

Additional effort must be put into improving court policies and practices so that they better serve never-married parents and low-income parents.

# Positive parenting relationships and father involvement help children

Developing positive parenting relationships and encouraging the participation of nonresident low-income fathers will improve the lives of millions of children. Studies show that fathers do care and want to be involved, and their help brings immediate benefits to children and mothers. Adequate funding for TANF's Access and Visitation program will help mothers and fathers who live separately create parenting plans and get on the right track to a more stable parenting relationship. This improves child support payment rates, helping to lift children out of poverty and decrease reliance on TANF and other social programs.

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## Millions of children live with a single parent

Approximately one in four children live with only one of their parents. This percentage is even higher for low-income children—44 percent of those below 200 percent of the poverty line, or 12.8 million children, live with only one parent.<sup>2</sup> Many of these children are being raised by people who are trying, or tried, to parent together while living apart.

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## Fathers care

Despite frequent stereotypes to the contrary, many low-income fathers care for their children and have the potential to be good fathers—this includes those who were never married to their children's mothers. A study in one urban city found that low-income unmarried women largely viewed the fathers of their children to be supportive at the time of the birth of their children, meaning that they were encouraging, helpful, willing to compromise, and loving and affectionate.<sup>3</sup> Eighty-five percent of mothers said that the fathers gave them money during their pregnancy, and 100 percent of fathers indicated that they wanted to be involved in their children's lives.<sup>4</sup> These findings mirrored those in other cities.<sup>5</sup>

Most of the couples surveyed were romantically involved at the time their children were born. As time passes and intimate relationships end, challenges may arise that limit father-child relationships, including that the father is:

- Trying to avoid arguments and conflicts with the mother on visitation days
- Irresponsible and unreliable
- Embarrassed because he is unemployed and can't pay child support and/or purchase items for the child during visitation
- Working long hours to make ends meet
- Prevented from seeing the child

In short, irresponsibility among men is a significant concern, but other issues can and do come into play.

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## Relief for mothers

Fathers with intact connections to children can assume parenting duties, relieving some of the pressures placed on single mothers. They can help care for children while mothers are at work or school, drop off and pick up children from school, and be another source of love, support, and discipline.

Noncustodial fathers can also provide financial help to single mothers who disproportionately bare the costs of childrearing. Studies have demonstrated that fathers who are involved in their children's lives are more likely to pay child support.<sup>6</sup> They may also relieve economic pressures in other ways, such as by purchasing Christmas gifts or school supplies, or picking up a sick child from school so a mother doesn't have to take off work and lose pay. These financial contributions can ultimately help lift some children out of poverty and reduce reliance on TANF and other social programs.

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## Helping everyone benefit from the same privileges

The nation's courts have a history of being reluctant to interfere with the ability of birth mothers and fathers to parent their children.<sup>7</sup> Mothers are often more closely associated with childrearing, but courts generally presume that fathers who are seeking a divorce should be granted some amount of visitation or joint custody.<sup>8</sup> Fathers who are involved in childrearing but never married the mothers of their children are deemed to have similar privileges.<sup>9</sup> Low-income fathers can experience very different outcomes simply because they lack the money or resources for court proceedings and dispute resolution services that ultimately define visitation and custody arrangements. The potential inability to maintain a regular and consistent contact with children is unfair to fathers, but even more importantly, it is unfair to their children who could be denied the love and support of a birth parent.

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## Long-term childhood outcomes

Research on the influence of nonresident father involvement in children's lives has been somewhat mixed. Some studies have found no effect or even some negative effects,<sup>10</sup> while several other studies have demonstrated positive connections between nonresident father involvement and factors such as academic achievement, reduced behavioral problems, and improved social interactions with peers.<sup>11</sup> More research is needed, and it should focus on the quality of father-child relationships—as opposed to the quantity of visits—and isolate various personal characteristics that influence outcomes. Such information would aid in understanding the influence of nonresident fathers and inform efforts to create high quality parent education and fatherhood programs.

Studies focused on child support payments have produced more consistent results. Financial support is often associated with increased likelihood of academic achievement and reduced behavioral problems in school.<sup>12</sup> This research is frequently cited to communicate the importance of the nation's multi-billion dollar child support enforcement efforts. It also has clear implications for parenting relationships and visitation—visitation increases child support payments and all their proven benefits.

Effective parenting relationships and father visitation are of great benefit to low-income families, providing additional parental supports for single mothers and improving incomes via increased child support payments. The evidence suggesting positive childhood outcomes further supports investments in tools that promote relationships between children and nonresident fathers—especially when those tools are case-specific and have built-in protections against the exposure of children and parents to abusive or otherwise harmful relationships.

# Low-income single parents and the courts

The nation’s family law courts and related practitioners have a long history of developing and refining policies and practices to serve parents tied together by marriage. Yet it is unclear how many low-income married couples are actually able to effectively access these services.

Certain barriers are evident. Low-income parents are, by definition, less likely to have sufficient financial resources to pay for legal counsel or other professional services. Free legal services are often unavailable. According to the Legal Services Corporation, an entity that distributes federal funds to free legal services providers, family law cases are the most likely to be turned away—over 390,000 people each year are denied assistance because those organizations don’t have the resources to serve them.<sup>13</sup> Parents have the option of representing themselves, which is currently a common practice, but one that presents certain hurdles. The processes may be overly complicated, difficult to navigate with a limited educational background or literacy skills, unaffordable if they require filing fees or taking time off work, and involve intimidating or unpleasant court environments.

It is probable that, given these barriers, many low-income married couples experience long delays in proceeding through the formal process of divorce, or may not go through the process at all. Census data seems to support this notion, indicating that the likelihood of being divorced as opposed to just being separated increases according to income (See table).<sup>14</sup>

Share of divorces versus separations by income group

| Income group         | Number of families | Divorced | Separated |
|----------------------|--------------------|----------|-----------|
| Under \$10,000       | 716,000            | 49%      | 51%       |
| \$10,000 to \$14,999 | 491,000            | 54%      | 46%       |
| \$15,000 to \$19,999 | 522,000            | 58%      | 42%       |
| \$20,000 to \$24,999 | 552,000            | 63%      | 37%       |
| \$25,000 to \$29,999 | 490,000            | 63%      | 37%       |
| \$30,000 to \$39,999 | 985,000            | 68%      | 32%       |
| \$40,000 to \$49,999 | 695,000            | 74%      | 26%       |
| \$50,000 to \$74,999 | 994,000            | 75%      | 25%       |
| \$75,000 to \$99,000 | 465,000            | 79%      | 21%       |
| \$100,000 and over   | 456,000            | 77%      | 23%       |



Court access barriers raise serious concerns. It may be impossible for many low-income parents to form new, and perhaps longer lasting, marital unions with new partners. But perhaps more importantly, it leaves their children in an uncertain limbo, lacking established custody and visitation arrangements, or more detailed parenting plans, even though their parents' will not be reuniting. When there are not clear expectations for the parenting relationship, parents that live apart may be more likely to argue, perhaps in front of the children, and delay financial support arrangements. And fathers may have only limited access to children. All of these circumstances are unlikely to work toward the best interests of the children.

Couples who were never married face similar challenges. However they lack the legal ties associated with marriage, or in some cases established paternity, further decreasing the likelihood that they will end up in court or have access to related parenting interventions. A growing and disproportionate number of low-income children—5.9 million—are in such families, living with a sole parent who was never married.<sup>15</sup>

Current court models inherently fail to reach never-married couples in a timely fashion. Family courts were set-up with the notion that couples would file for divorce soon after deciding to end their marriage, triggering decisions about custody, visitation, and child support. The trigger for never-married couples to go to court is not so clear since they have no legal ties—thus, they may not end up there until their disagreements have reached a heightened level and parenting relationships have fallen apart to the point where they have no other choice but to go to court. It would be better for children and families if the help reached parents at earlier stages in these parenting relationships.

# Policy promoting peaceful resolutions and effective relationships

Over the last couple of decades there has been a revolution in the way the nation's courts approach divorce cases. Notions about the best interests of children and the growth of joint custody arrangements pointed to the need for new approaches. According to one study, 71 percent of parents indicated that adversarial court trials escalated the level of conflict and distrust in their relationships,<sup>16</sup> probably making it more difficult for them to continue to raise their children together.

Such concerns led to the rapid spread of alternative dispute resolution, or ADR, in divorce cases. These methods seek to resolve family issues, including custody and visitation, much more peacefully without resorting to an adversarial trial that is associated with winners and losers. Other benefits include quicker and less costly resolutions.

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## Alternative dispute resolution methods

Popular alternative dispute resolution methods for family law cases include:

- **Parenting education programs.** These classes instruct parents on issues such as the effect of divorce/separation on children, how to manage parenting relationships, communications skills, community resources, and legal rights and responsibilities.
- **Mediation.** This method involves the intervention of a neutral third party referred to as a mediator. The mediator assists the two parents in negotiating resolutions to disputed issues such as custody, visitation, property division, and child and spousal support. This approach is case-specific, allowing couples to develop unique solutions that best fit their family. It also seeks to foster cooperative parenting relationships.
- **Parenting plans.** Parenting plans define the roles and responsibilities of each parent. These tools attempt to head off conflicts before they even develop by having parents develop detailed written agreements that include issues such as regular child contact schedules, special events schedules (birthdays and holidays), decision-making responsibilities, information sharing about the children, telephone access, transportation for visitation, and methods for resolving future disputes. Such plans are developed through multiple means, including mediation, attorney assistance, and courthouse assistants.

Court interaction frequently precedes participation in ADR, with many states and judicial districts mandating participation for those who file cases in family court. Low-income and never-married couples who are locked out of the courts are therefore also locked out of these services.

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## The federal Access and Visitation program

The federal government currently has one program focused on these issues—the Access and Visitation program. The AV program is included in TANF legislation and administered by the federal Office of Child Support Enforcement. It funds services designed to improve child access and visitation for noncustodial parents. This includes the ADR services mentioned above—parenting education programs, mediation, and parenting plans—as well as the following:

- **Counseling.** Counseling helps family members adjust to their changing relationships and can help parents resolve conflicts that interfere with positive child rearing.
- **Supervised visitation.** Third-party monitoring of the contact between a child and parent is typically ordered by a judge. This service is designed to protect the safety of the child when there have been allegations of domestic violence, child physical or sexual abuse, or other forms of parental misconduct.
- **Neutral drop-off and pick-up.** This service is designed for high-conflict parents who benefit from having a third party present when exchanging their children for visits.

The U.S. Department of Health and Human Services published an evaluation of the federal Access and Visitation program in 2006. Its findings point to positive outcomes for a significant number of families<sup>17</sup>:

- **Participant satisfaction.** The majority of participants, both mothers and fathers, expressed some level of satisfaction with each of the services offered.
- **Agreements reached through mediation.** Two-thirds of mediation participants were able to develop parenting plans or reach agreements about living arrangements, visitation, and child support.
- **Visitation time.** Most parents reported increases or maintenance of the status quo in father visitation time. Responses varied according to the types of services offered. Noncustodial parents (largely fathers) viewed program results positively. And 32 percent of mediation participants, 41 percent of parent education participants, and 45 percent of supervised visitation participants indicated that they were able to see their children more often.

- **Parenting relationships.** There were double-digit percentage increases across all intervention types in the share of parenting relationships that were characterized as “cooperative,” even if strained.<sup>18</sup> This corresponded with declines in the number of hostile and angry relationships.
- **Child support.** Across programs, 46 percent of noncustodial parents increased their child support payments following intervention.<sup>19</sup>

## Federal program findings mirror general research

Various studies have associated mediation with high rates of settlement, reduced cost and length of divorce proceedings, higher rates of participant satisfaction among even those parents who are unable to reach a settlement, fewer return trips to court, a greater likelihood of a cooperative parenting relationships, higher levels of contact between noncustodial parents and children, and greater compliance with child support orders.<sup>20</sup>

Research on parent education is much more limited, but it has been associated with high rates of parent satisfaction, reports of learning new information and skills, and a majority of parents indicating that they had used the information they learned with possible decreases in parental conflict.<sup>21</sup>

## Limitations of current research

Evaluations of the federal AV program and the larger body of ADR research have certain common limitations. They largely rely on self-report data, which at times can be inconsistent. They also lack control groups, leaving the possibility that programs are actually doing much better than is apparent on the surface—those who did not receive services may have been much less likely to maintain the status quo in their visitation time or to experience increases. More work must be done to improve research designs, allowing for better evaluation of program effectiveness and the identification of model local programs that are ripe for replication.

Although there are limitations to currently existing evaluations of the federal AV program, it is evident that it is helping families, many of whom are low income. The program is producing strong results. This is true despite a long history of neglect by Congress that has held it back from fulfilling its full potential.

# Overhauling the federal access and visitation program

The federal government has treated the AV program more as a perpetual demonstration grant program than a valuable service that could benefit up to 12.8 million children, despite the program's successes and potential. But Congress can overhaul and bolster the program as it undertakes a reauthorization of TANF, which is scheduled for 2010, by:

- Expanding the program by increasing available funding
- Ensuring an established role for legal services providers
- Targeting resources toward those families who stand to benefit most
- Increasing the involvement of community-based institutions
- Encouraging changes to relevant court practices

Such changes would provide a real investment in promoting responsible fatherhood, effective parenting relationships, and the needs of the changing American family.

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## Expanding the current program

The federal Access and Visitation program has existed since 1997, but its budget has never increased above its original \$10 million per year allocation. Obviously, the purchasing power of these dollars has changed over the last decade, declining with inflation. In real dollars, funding for the program decreased by \$3.4 million dollars, or roughly one-third, between 1997 and 2009. There have been bipartisan recommendations for funding increases over the years from both Presidents George W. Bush and Barack Obama.<sup>22</sup> But Congress has never passed an increase, and pending appropriations bills keep the program static at \$10 million.

In contrast, the federal government will spend an estimated \$3.8 billion on child support enforcement during fiscal year 2009, which is also included within TANF legislation.<sup>23</sup> Child Support Enforcement is a valuable program that brings additional dollars into the homes of low-income mothers and children, assisting with the necessities of child rearing. Some have also framed the program as one that forces men to be financially responsible for their children.

Current law places a premium on financial responsibility but invests a token amount in all the other aspects of parenting that are supported by Access and Visitation. The lack

## Domestic violence and safety concerns

An estimated 1.3 million women are survivors of physical violence each year. For these women, there are safety and other concerns tied to participating in mediation and continued parenting relationships with an abuser.

But the majority of low-income women are not involved in physically violent relationships. And policy must find a way to ensure that this majority of women receive valuable services from the Access and Visitation program while protecting those involved in abusive situations to the greatest extent possible.

Most courts, alternative dispute resolution service providers, and related professional associations have developed guidance and/or policies designed to address domestic violence situations and ensure the safety of women and children. The federal government has created the Supervised Visitation and Safe Exchange Grant Program, which seeks to protect survivors during child visitations and exchanges. These measures should be improved to the extent that they are not serving current need, and additional protections should also be considered as appropriate.

of investment in AV services also hinders the primary goal of child support enforcement—increasing child support payments, which is an outcome of increased child access and visitation.

The off-balance nature of this approach appears starker when one considers how the Child Support Enforcement program affects access and visitation. TANF's child support enforcement provisions force mothers seeking government benefits to identify fathers for child support collection purposes. The financial support is good for children but may cause a father to be angry with a mother for turning his name over to the enforcement agency, possibly causing a range of severe consequences including wage garnishment and imprisonment. This ingrained potential for increased parental tension co-exists with inadequate funding for the AV programs that can help parents manage tensions and increase the effectiveness of their parenting relationships.

Child support enforcement is necessary, but so is addressing the parental tensions that the program could compound. Comparisons between child support enforcement and access and visitation provide a fuller picture of current investments. Yet they do not suggest that the nation should rob one to pay the other. President Obama has recommended a \$32 million increase for the Access and Visitation program over the next five years.<sup>24</sup> Even more aggressive funding proposals should be considered.

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## Filling the legal services void

A low-income mother with a question about whether her ex-boyfriend is legally allowed to frequently and unexpectedly drop by to see their son, or a father who wonders what he can do if his estranged wife will no longer allow him to visit his daughter, have very few places to turn for answers. And if these parents want actual assistance resolving these disputes, there may be few resources that they can access in their community. There is a clear role that legal groups can fill in helping such families resolve and avoid conflicts that could be most harmful to their children. More than 390,000 people each year turn to free legal services providers for help, but are turned away because there are insufficient resources to serve them. Ensuring funding for these providers, as well as law school clinics and pro bono programs, would be of tremendous benefit to families.

These lawyers should ultimately aim to advance alternative dispute resolution methods, which are currently funded by the Access and Visitation program and are better for parenting relationships and the children involved.

## Information and *pro se* assistance

It is unlikely that the AV program will experience the dramatic overnight growth necessary to allow it to serve every parent who could possibly benefit from its services. Many parents may therefore benefit from a lesser form of assistance—help with self-help. This could include legal hotlines and *pro se* clinics—classes or information meetings—that respond to questions about parents’ legal rights and obligations, the processes involved for those representing themselves, and the availability of no- to low-cost ADR services.

Texas has developed a program that can serve as a model. The state attorney general and child support division started a legal assistance hotline in 2003 that is operated and staffed by a local legal aid organization. It experiences a high amount of demand, helping parents with such issues as understanding the legal language in their visitation orders, navigating the family court processes, providing sample legal forms, and finding potential solutions to their visitation problems.<sup>25</sup> These are important questions that deserve answers, especially given the potential consequences of a parent not being able to see his or her child. Significant numbers of families have indicated that the hotline helped resolve their issues, while 27 percent reported that they were seeing their children more following a call to the hotline.<sup>26</sup>

## Supports for nonlegal service providers

Nonlegal providers may be helping families with mediation and the development of parenting plans, but they require assistance when filing those plans with the courts, which is a necessary step if enforcement measures ever become necessary. These groups may also need a place to refer those parents who they are unable to help using nonlegal methods.

## Resolution services

Lawyers can directly provide alternative dispute resolution services. Many attorneys are trained mediators and/or studied ADR techniques in law school. Some have been working with emerging techniques such as collaborative law, which is based on the notion of using negotiation techniques to resolve disputes without going to court.<sup>27</sup> Many nonlawyers provide high-quality dispute resolution services, but attorneys bring an important knowledge of the law to the process—they can inform parents of how a court would handle a dispute, ensuring that parents understand what they are giving up in negotiations. A lawyer is also able to draft legal documents memorializing any agreements.

Directly providing dispute resolution services allows legal groups to serve whole families. Individual client representation forces the legal group to pick one parent's side—in a community with limited options for no- or low-cost legal assistance, this would often leave the other parent without any legal help, creating a justice imbalance that may favor one parent over the other. There should ideally be partnerships between providers, allowing one group to assist with ADR—addressing the needs of the vast majority of parents who are able to reach agreements—and others that could provide individual representation to the much smaller group of parents who are unable to reach a resolution. Whatever the model, there should be efforts to ensure that both mothers and fathers benefit from assistance.

## Individual client representation

Parents participating in mediation services may find it helpful to have attorney representation. This is especially true when the mediator is not a lawyer and therefore not as well-suited to provide information about legal rights and obligations that should inform decisions made during negotiations.

Assistance from legal counsel is also helpful when the initial reluctance of a parent hinders participation in AV services. Custodial parent refusals or avoidance were the primary reasons why agencies failed to deliver AV services to families participating in recent child support enforcement agency demonstration projects.<sup>28</sup> These results are not surprising since individuals from other income groups often don't come to these services voluntarily—many courts must mandate or highly encourage participation in ADR services.

Low-income couples are different in that they face barriers to court participation with its associated mandates and incentives for participation in ADR. It would be helpful for this group to increase the availability of legal assistance that facilitates connections to the court system. This will in many jurisdictions lead to participation in ADR services. An evaluation of the federal AV program found that significant percentages of both mothers and fathers reported some level of satisfaction with the services—and satisfaction rates were similar for those who were mandated to participate and those who volunteered.<sup>29</sup> Even if some parents are initially hesitant to participate in ADR, it is likely that those feelings will pass.



## Determining income eligibility for access and visitation services

Creating income guidelines for access and visitation services presents some novel complications. Family participation requires consideration of both household incomes. But do both parents have to meet the income qualifications? What happens if the mother's income qualifies, but the father's household income does not? Should we consider the noncustodial parent's child support payments when calculating his/her income? Should we consider the parents' joint income? If so, how do you account for the fact that they have two households?

The most sensible option is ultimately to consider the two incomes separately. The custodial parent's eligibility should be determined based on income and the number of children in the household. The noncustodial parent's eligibility should be based on income that is adjusted by subtracting the sum total of his/her yearly child support obligations, including those provided to other families, and considering other current household members, including spouses and additional children. Eligibility for both should be capped at 200 percent of the poverty line.

When one parent qualifies and the other does not, the program should assess the noneligible parent an appropriate fee. This should not be a cause of concern for court-mandated participants. But a fee may be a deterrent when participation is voluntary. Programs should therefore have the discretion to serve the noneligible parent at no cost, or at reduced cost.

Of course, some parents may not adhere to parenting plans or court orders, creating problems with visitation or financial support. Court enforcement—or the threat of it—may be required. Assistance from attorneys is necessary in these cases for filing necessary motions and avoiding the complications that may be associated with self-representation.

In sum, there is a great need for lawyers in efforts to resolve visitation and other concerns of low-income parents. Attorneys can help peacefully resolve conflicts, ensuring the best interests of children. Legal services should have a dedicated source of funding within the Access and Visitation program given the important role they play.

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## Targeting resources to those who need them most

The current Access and Visitation program does not provide any guidance on which families to prioritize. But the last decade of operations suggests certain populations would benefit from some targeting efforts, including low-income families, never-married couples, parents who lack access rights, and families with an incarcerated parent.

## Low-income families

Many grantees direct most of their resources toward low-income families, but the Access and Visitation program is not a low-income program. Approximately 48 percent of the parents served have an income under \$20,000, but income information is unavailable for more than 15 percent of participants, and another 10 percent have incomes over \$40,000.<sup>30</sup> One HHS study identified parent participants that were making over \$70,000 and \$90,000 a year.<sup>31</sup>

To help put these numbers into further perspective: a) 200 percent of the poverty line is a little under \$37,000 for a single parent with two children,<sup>32</sup> and b) some of the parents who earn over \$40,000 are noncustodial parents who may be living alone and are not responsible for the full-time care of their children. The federal Access and Visitation program is therefore serving a number of parents who wouldn't qualify for any other federal poverty program.

These services should be available to all families who need them. A number of parents earning more than \$40,000 may find it challenging to pay for dispute resolution services. But the lowest income families experience the greatest financial difficulties and may face greater barriers to self-representation. It is appropriate for eligibility for these federally funded services to be based on income given current minimal funding levels and the placement of the program within TANF.

## Never-married couples

A program evaluation found that never-married couples realize greater benefits from access and visitation services. Those who were never married were more likely than those with a marriage history to report that following AV services they saw their children more often, had a better relationship with the other parent, and saw improvements in their child's behavior.<sup>33</sup> Never-married parents also demonstrated greater increases in child support payment rates.<sup>34</sup>

According to one HHS study, surveyed family court personnel in a sampling of states indicated that the parents least well served by court programs include those who were never married.<sup>35</sup> Nationally, 44 percent of program funds are dedicated to this population with great variation existing amongst the states.<sup>36</sup> Efforts should be aimed at ensuring that all states are fulfilling the needs of this population.

## Parents lacking access rights

Parents who lack access rights, or formal visitation arrangements, may garner greater benefits from AV services than those who already have such rights. Common sense already leads to this conclusion, but evaluations of the federal program support the notion. A

majority of parents in the 2006 HHS evaluation already had access rights prior to beginning services. They had therefore already benefited from an intervention that resulted in the establishment of a court order or agreement, but were enrolling in additional services, possibly suggesting high levels of conflict.

A 2002 evaluation of mediation services focused on a separate set of states, producing a population that largely lacked access rights prior to encountering a federally funded AV program. These families demonstrated better outcomes than the 2006 families, including greater rates of agreement on parenting plans, larger increases in father visitation time, and greater increases in the amount of child support paid post-intervention.<sup>37</sup>

We should continue to help families that already have access, but a certain portion of available resources should be dedicated to those who haven't benefited from any interventions and may only require minimal assistance.

### Incarcerated parents

The majority of people in prison are parents to minor children—52 percent of state inmates and 63 percent of federal inmates.<sup>38</sup> Ninety-two percent of these parents are men, who have an estimated 1.6 million children.<sup>39</sup> The number of children with incarcerated mothers has been growing dramatically, more than doubling from 63,900 in 1991 to a little less than 150,000 in 2007.<sup>40</sup>

Being a father behind bars typically means trying to maintain a relationship with a child who is in the mother's custody—a different version of parenting together while living apart. Many of these incarcerated dads had relationships with their kids when they were on the outside, often living with them (42 percent of state prisoners, 51 percent of federal) and providing primary financial support (54 percent of state prisoners, 67 percent of federal).<sup>41</sup> There are a significant number of imprisoned fathers who were physically available and financially responsible for their children before entering confinement. Social policy should support, not hinder, the continuance of these relationships so that they will still be viable upon a prisoner's release.

In contrast, only 37 percent of mothers in state prisons have children who are in the custody of the other parent; most are in the care of grandparents, other relatives, or the foster care system. Their concerns as noncustodial parents are therefore somewhat different from those of male prisoners and may require different approaches that more heavily involve nonparent caretakers.

Both incarcerated fathers and mothers face challenges in maintaining relationships with their children. A 2004 survey revealed that 59 percent of parents in state prisons and 45 percent of those in federal prisons had not seen their children since being incarcerated.<sup>42</sup>

Less than 15 percent were able to have visits at least monthly.<sup>43</sup> Parents face numerous barriers including:

- Incarceration in locations far away from their families
- Phone calls hindered by excessive collect call costs and the restrictions that correctional facilities place on phone use
- Prison visitation policies that are overly restrictive when it comes to factors such as timing, physical contact, and the individuals who must accompany the child for a visit
- Visitation environments that may be dirty, overcrowded, or generally lacking in accommodations for young visitors
- Some caregivers' unwillingness to allow visits or calls, possibly due to deteriorations in intimate relationships or perceptions about what is best for the child

Research indicates that children often want and need to see parents who are in prison.<sup>44</sup> Continued contact with the parent alleviates the trauma of separation and helps to dispel the potential belief that the parent is not around because he or she no longer loves or cares for the child.<sup>45</sup> There is also some research indicating that continued relationships with families and children reduce rates of recidivism for prisoners and increase the likelihood that fathers will be involved in their children's lives after being released.<sup>46</sup> Pre- and post-release father involvement translates into greater financial resources for child rearing in the form of child support. And taxpayers ultimately benefit from the avoided costs of future crimes, incarceration, and mothers' reliance on social programs.

Even given these benefits, such contact should not occur if it would be harmful to children. We need to learn more about how to foster parental relationships during periods of incarceration. Very little research has documented the effect of prison visits on children while also considering variations based on developmental stages and the physical environments created for visitation. Removing barriers to phone calls, letters, and other forms of communication should also be considered for situations where visiting is not appropriate or achievable.

A portion of access and visitation program funds should be dedicated to the needs of incarcerated parents given the size of the current prison population and the disproportionate effect of incarceration on low-income families. This would guarantee that each state makes a minimal level of investments in these parents.

The federal government should direct funding for departments of correction and outside organizations toward the following:

- Mediating or otherwise facilitating the development of parenting plans before a parent enters prison and upon his/her release, accounting for the fact that many marriages and other relationships do not survive the process of incarceration
- Providing parenting education programs

- Facilitating contact by providing transportation for visits or resources for phone or video calling
- Enabling community-based incarceration that prevents parent-child separation where appropriate

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## Increasing the involvement of community-based institutions

The federal AV program is largely connected to the courts and child support enforcement agencies at present. These entities are the primary sources of service referrals. The courts and their affiliated programs are the primary grantees. It makes sense for courts and child support enforcement agencies to be significantly involved in these services, but they also have inherent limitations. Involving community-based institutions could help make up for these deficits while adding other new benefits.

### Limitations of courts and child support enforcement agencies

Courts and child support enforcement agencies, or CSEAs, don't reach families soon enough. Court involvement produces delays because it requires at least one parent to become aggravated enough over time to pursue formal action and file a case in court and/or overcome the hurdles of affording counsel or pursuing self-representation. And getting AV program help via a child support enforcement agency involves a multitiered process that could be time consuming—mothers apply for TANF (or Medicaid or another state support program), which then refers her to the Office of Child Support Enforcement, which may then refer her family to a separate Access and Visitation program provided that the father complains enough about not being able to see his children.

The courts and CSEAs are also often not attractive sources of help. Courts have formal procedures that can be alienating. They are associated with negative life events such as being on trial for a crime or being sued. Child support enforcement agencies may be worse, with fathers often trying to minimize contact with an agency that has the primary purpose of collecting money from them even if that means garnishing their wages, placing negative marks on credit reports, or suspending drivers' and professional licenses. And in some states these agencies are located within attorneys' general offices, which could be intimidating or off-putting to the significant number of low-income fathers who have been involved in the criminal justice system or who come from communities where many members have negative views about law enforcement agencies.

In short, there is reason to believe that courts and child support enforcement agencies are associated with delays and unapproachable atmospheres that hinder the delivery of services. In the meantime, escalating tensions may make it more difficult to repair parenting relationships. The conflict may harm children if they have to witness it, and it may hurt both fathers

and children through a reduced ability to spend time with one another. Indeed, there is some evidence suggesting that AV program services should be accessed as soon as possible.

Researchers have found that ongoing high levels of parental conflict produce lower self-esteem, increased anxiety, and a loss of self-control in children.<sup>47</sup> And continued negative interactions between parents make it more likely that the father will withdraw from the child's life.<sup>48</sup> Fathers that simply give up on the situation and don't have visitation arrangements or parenting plans are less likely to pay child support, hurting the financial health of households with children.

### Value added by community-based institutions

Congress should place legislative emphasis on reaching parents at much earlier stages following the dissolution of their romantic relationships and in locations that foster program participation. That's where community-based institutions could be of great help. These could include Community Action Agencies, fatherhood and youth development programs, faith-based organizations, and schools.

Community-based institutions are more likely than courts and child support enforcement agencies to be familiar, comfortable, and welcoming environments. They are in a position to provide more timely assistance due to their proximity to where families live. They are also likely to already offer assistance with other concerns, and in doing so, are well positioned to connect families with AV program services. A parent who goes to a Community Action Agency for food pantry services, for example, may see a flier for an AV program and decide to participate, especially if it conveniently meets in the same location.

These entities are associated with still further advantages. They reach families at early stages, and may therefore come into greater contact with those who completely lack access rights and who are less troubled—but would still benefit from help—than those who are involved in the court system. They also have a history of serving low-income people and diverse communities. This experience and perspective may lead to approaches that are more appropriate to the populations being served by the access and visitation programs, ultimately improving participation and outcomes.

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### Reforming relevant court practices

There is often a disconnect in the nation's courts between visitation and custody, and child support. Judges reviewing child support matters may tell a parent who raises concerns about visitation that his or her court can not help. The parent may have to pursue a separate court case. This is a burdensome barrier for low-income parents that typically requires a potentially cost-prohibitive filing fee, an equally cost-prohibitive attorney, or a struggle to decipher the sometimes complicated process of pursuing self-representation.

These circumstances often don't make much sense to fathers who question why so much effort is put into getting them to pay child support when no one seems to care about whether they actually get to see the children they are being asked to support. The disconnect also doesn't make sense when it is compared to the trajectory of married couples who don't face barriers to court access—the court generally jointly considers their issues around custody, visitation, child support, spousal support, and the division of property when they file for divorce. After all, it would be terribly inefficient to consider each issue separately, involving different judges and processes for the exact same family. It is unclear why this separation is appropriate for couples involved in child support cases.

The receipt of child support should not be conditioned on visitation, but courts hearing child support matters can expand their purview to include concerns about access and visitation. Approaches could certainly vary and be determined by communities, but judges could order parties into AV services when appropriate, make referrals to courthouse parent coordinators and/or simply provide information about community resources.

Improved integration of child support and access and visitation concerns will have multiple benefits: removing unnecessary barriers to child access for low-income parents, streamlining processes, improving child support collection rates through access, and helping the entire family by assisting both parents in managing conflict and improving their parenting relationships to the extent such services are available.

Federal legislation can help facilitate change, but other groups will also have to evaluate how well access and visitation programs work for low-income people in their areas and seek improvements where necessary. These participating parties — state and local governments, justice commissions, court systems, the private bar, legal services providers, community groups, and poverty advocates—can help improve court policy by:

- Streamlining and better defining family court processes for never-married parents
- Simplifying procedures for instituting and changing access and visitation orders
- Improving access to services for low-income parents via waiving or reducing filing fees for critical petitions related to access and visitation

These evaluations should also consider various methods of expanding available services such as new funding mechanisms, collaborative partnerships, and volunteerism.

# Conclusion

The phenomenon of parenting together while living apart is commonplace, particularly among low-income families. Couples who are divorcing and have sufficient resources to access our nation's court system are often referred to alternative dispute resolution services, which culminate in the creation of parenting plans and orders for custody, visitation, and financial support. These processes ensure that noncustodial parents—typically fathers—are able to have continuing relationships with their children and are provided with tools for initiating effective and cooperative parenting relationships with their former partners. Low-income families have far too little access to such services, especially if they were never married.

Congress responded to this problem more than a decade ago by creating the federal Access and Visitation program within TANF legislation. Yet this program has largely remained undefined and underfunded, and resembles a neglected demonstration project rather than a national imperative. This needs to change.

Congress should act as it reauthorizes TANF to institute changes that will improve the services offered to families. These changes should be accompanied by continued efforts on the state and local levels where more legislative and other policy development activity is often warranted.



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